

Dale Bauman
RR1 Box 189A
Alton, NH 03809

Re: Bauman's Breakstop, Route 28 &
Prospect Mountain Road
UST #0-113561

**ADMINISTRATIVE ORDER
BY CONSENT
No. WMD 05-010**

A. INTRODUCTION

This Administrative Order by Consent is issued by the Department of Environmental Services, Waste Management Division to, and with the consent of, Dale Bauman, pursuant to RSA 146-C:9-a. This Administrative Order by Consent is effective upon signature by both parties.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. Dale Bauman is an individual having a mailing address of RR1 Box 189A, Alton, NH 03809.

C. STATEMENTS OF FACTS AND LAW

1. RSA 146-C authorizes DES to regulate the installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSAS 146-C:9, the Commissioner of DES has adopted New Hampshire. Administrative Rules Env-Wm 1401 to set forth the requirements for underground storage facilities by "establishing criteria for registration and permitting, and standards for design, installation, operation, maintenance, and monitoring of such facilities."
2. Dale Bauman is the owner of two steel underground storage tank ("UST") systems located at Route 28 and Prospect Mountain Road in Alton, NH("the Property"), further identified as #0-113561 ("the Facility"). The UST systems include two 6,500-gallon gasoline tanks.
3. The UST systems at the property are subject to RSA 146-C and Env-Wm 1401.
4. Env-Wm 1401.32(b) requires all existing USTs to be protected from corrosion.
5. Env-Wm 1401.33(b) requires all existing metal piping that routinely contains regulated substances and is in contact with the soil or other backfill material to be protected from corrosion.

6. The two USTs on the Property do not have corrosion protection.
7. The metal piping for the two USTs do not have corrosion protection.

D. DETERMINATION

1. Dale Bauman has violated Env-Wm 1401.32(b) by failing to provide corrosion protection for the two USTs.
2. Dale Bauman has violated Env-Wm 1401.33(b) by failing to provide corrosion protection for the two UST piping systems.

E. ORDER

Based on the above findings, DES hereby orders Dale Bauman, and Dale Bauman agrees, to undertake and complete the following actions by December 31, 2005:

1. Provide access to the Property for DES and its contractors to conduct any and all necessary work associated with permanent closure of the two UST systems described in Section C of this Order, in accordance with Env-Wm 1401.18.
2. Assist DES and its contractors with identifying Property lines and all underground piping and utilities.
3. Provide unrestricted access to the Property for temporary storage of equipment and materials during the permanent closure of the two UST systems.
4. Remove all items from the work area, prior to arrival of the contractor, which may interfere with performance of the UST systems closure.
5. Acknowledge that DES will place a lien on the Property equal to the cost associated with the UST systems closure.
6. Acknowledge that the total lien must be discharged prior to DES approval of any future engineering plans for the installation of one or more motor fuel tanks, or upon any conveyance of the Property.
7. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order by Consent to DES as follows:

Lynn A. Woodard, P.E., Supervisor
Oil Remediation and Compliance Bureau
PO Box 95
Concord, NH 03302-0095


F. CONSENT AND WAIVER OF APPEAL

1. By execution of this Administrative Order by Consent, Dale Bauman agrees that this Order shall apply to and be binding upon Dale Bauman and agrees that this Order may be entered and enforced by a court of competent jurisdiction.
2. By execution of this Administrative Order by Consent, Dale Bauman waives any right to appeal this Administrative Order by Consent provided by statute, rule, or common law, including without limitation the right to appeal to the Waste Management Council, and waives any right to object to the entry and enforcement of this Order by a court of competent jurisdiction.



COPY
Dale Bauman, Owner

Date: Oct, 31 2005

NH Department of Environmental Services


COPY
Anthony P. Giunta, P.G., Director
Waste Management Division

Date: 12/27/05


COPY
Michael P. Nolin, Commissioner

Date: 01 03 06

cc: Gretchen R. Hamel, Esq., Legal Unit Administrator
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
James Martin, DES Public Information Officer
Lynn A. Woodard, P.E., WMD UST Supervisor
Thomas R. Beaulieu, WMD UST Chief

